

UNITED STATES DISTRICT COURT
for the District of New Mexico

JHA Tax, Inc. d/b/a Liberty
Tax Service,
Plaintiff,

v.

Troy Clark and
Southwest Tax Stores, LLC,
Defendants.

Civil Action No. 2:11cv59

Responses and Objections to Exhibit A and B

COMES NOW, Freedom Tax, LLC, a non-party to the forgoing action, by and through its attorney of record, David A. Standridge, Jr. (STANDRIDGE LAW FIRM, PC), and responds to the *Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action* (Exhibits A and B), served on her by Plaintiff, as follows:

1. In response to paragraph one, which states: “List by customer name and primary SSN the dollars received by Freedom Tax from each customer for tax preparation services from January 1, 2010 through and including April 15, 2010”, Freedom Tax, LLC objects. The information sought is privileged and confidential. This question elicits trade secret information that could harm Freedom Tax, LLC if it were released.

EXHIBIT

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2. In response to paragraph two, which states: **“Any such personnel or payroll documents as show the name and last known addresses of all employees for Freedom Tax in 2010 and 2011”**, Freedom Tax, LLC objects. The requested documents are confidential and contain privileged information. Releasing the requested documents would reveal trade secret information.
3. In response to paragraph three, which requests: **“All customer lists, any document attached or electronic file that contains customer names, addresses or any customer information that was saved, copied, downloaded, maintained, transferred, or generated from any Liberty Tax Service office including those owned by Troy Clark or Southwest Tax, LLC”**, Freedom Tax, LLC objects. This information is trade secret, privileged, and contains confidential research, development, and commercial information.
4. In response to paragraph four, which requests: **“All ‘Release of Information’ (see Exhibit 1) forms signed by Freedom Tax customers authorizing Southwest Tax Stores d/b/a Liberty Tax Service, LLC to release a copy of their Federal and State Income Tax Returns”** Freedom Tax, LLC objects. The information sought is confidential and privileged.
5. Responding to paragraph five, requesting: **“All correspondence (including e-mail communication) with the landlords for all Freedom Tax office locations from September 1, 2010 through April 15, 2010.**

2130 San Mateo Boulevard NE, Suite G, Albuquerque, New Mexico
1449A Eubank Boulevard NE, Albuquerque, New Mexico
3118 San Mateo Boulevard NE, Albuquerque, New Mexico
1009 Golf Course Road, Suite 104, Rio Rancho, New Mexico
475 Coors Boulevard NW, Suite D, Albuquerque, New Mexico”

Freedom Tax, LLC objects to this request because this information is confidential.

However, notwithstanding the objection, there are no communications with landlords for any of the above referenced locations (a-e).

6. In response to paragraph six, requesting: **As to the time period November 1, 2010 to April 15, 2011, all leases, sub-leases, and assignment of leases for the offices used 'by**

Freedom Tax Stores, including the following locations:

- a. 2130 San Mateo Boulevard NE, Suite G, Albuquerque, New Mexico
- b. 1449A Eubank Boulevard NE, Albuquerque, New Mexico
- c. 3118 San Mateo Boulevard NE, Albuquerque, New Mexico
- d. 1009 Golf Course Road, Suite 104, Rio Rancho, New Mexico
- e. 475 Coors Boulevard NW, Suite D, Albuquerque, New Mexico",

Freedom Tax, LLC objects on the grounds that this is confidential, privileged, and is intended to unduly burden and harass.

Notwithstanding the objection, Freedom Tax, LLC has enclosed its leases hereto.

7. Responding to paragraph seven, requesting **"As to the time period November 1, 2010 to April 15, 2011, all cancelled checks for rent payments paid to you from a third party and/or paid by you for the offices used by Freedom Tax Stores, including the following locations:**

- a. 2130 San Mateo Boulevard NE, Suite G, Albuquerque, New Mexico
- b. 1449A Eubank Boulevard NE, Albuquerque, New Mexico
- c. 3118 San Mateo Boulevard NE, Albuquerque, New Mexico
- d. 1009 Golf Course Road, Suite 104, Rio Rancho, New Mexico
- e. 475 Coors Boulevard NW, Suite D, Albuquerque, New Mexico",

Freedom Tax, LLC objects. This information is confidential and privileged, and the request is made to unduly burden and harass.

8. In response to paragraph eight, which requests: **“As to the time period November 1, 2010 through April 15, 2011, all telephone bills that were for telephone service for the offices currently occupied by Freedom Tax Stores, including the following locations:**

- a. 2130 San Mateo Boulevard NE, Suite G, Albuquerque, New Mexico**
- b. 1449A Eubank Boulevard NE, Albuquerque, New Mexico**
- c. 3118 San Mateo Boulevard NE, Albuquerque, New Mexico**
- d. 1009 Golf Course Road, Suite 104, Rio Rancho, New Mexico**
- e. 475 Coors Boulevard NW, Suite D, Albuquerque, New Mexico”,**

Freedom Tax objects as is confidential and privileged, would reveal trade secret information, and is intended to unduly burden and harass Freedom Tax, LLC.

9. In response to paragraph nine, which requests: **“As to the time period November 1, 2010 to April 15, 2011, all electric, water, and natural gas bills for the offices currently occupied by Freedom Tax Stores, including the following locations:**

- a. 2130 San Mateo Boulevard NE, Suite G, Albuquerque, New Mexico**
- b. 1449A Eubank Boulevard NE, Albuquerque, New Mexico**
- c. 3118 San Mateo Boulevard NE, Albuquerque, New Mexico**
- d. 1009 Golf Course Road, Suite 104, Rio Rancho, New Mexico**
- e. 475 Coors Boulevard NW, Suite D, Albuquerque, New Mexico”,**

Freedom Tax, LLC objects. The information sought is confidential information, unduly burdensome, and intended to harass.

10. In response to paragraph ten, requesting: **“As to the time period November 1, 2010 through April 15, 2011, any employment contract(s) between Freedom Tax Stores and its employees”**, Freedom Tax, LLC objects as this request seeks confidential information and would reveal a trade secret. However, notwithstanding the objection, there are no such documents for the periods requested.

11. In response to paragraph 11, which requests: **“As to the time period January 1, 2010 through April 15, 2011, copies of all employee schedules showing the name of each employee, their assigned task, and the date and time scheduled to work”**, Freedom Tax, LLC objects because this information is privileged and confidential, includes trade secrets which could damage Freedom Tax, LLC’s business, and it is unduly burdensome and intended to harass.

12. Responding to the requests contained in paragraph 12: **“As to the time period January 1, 2010 through April 15, 2011, any documents, contracts, purchase and sale agreements, commission agreements, employment contract or other document(s) evidencing any financial interest, equity interest, past relationship or ongoing relationship between Freedom Tax Stores and Troy Clark, Ron Clark, or Kim Gutierrez”** Freedom Tax, LLC objects. Freedom Tax, LLC is contractually bound to keep this information confidential and could suffer financial harm by providing this information sought by the Plaintiff. Furthermore, it is unduly burdensome and harassing because this information could be sought from discovery requested by a party of record.

13. In response to paragraph 13, requesting: **“Articles of incorporation or article of organization for Freedom Tax Stores”**, Freedom Tax, LLC attaches the Articles of Organization hereto.
14. In response to paragraph 14 stating: **“As to the time period January 1, 2010 through April 15, 2011, all business licenses for Freedom Tax Stores”**, Freedom Tax, LLC attaches the business licenses hereto.
15. Responding to paragraph 15, which requests: **“As to the time period November 1, 2010 through April 15, 2011, all documents which show the purchase or license of lax preparation software by Freedom Tax Stores”**, Freedom Tax , LLC attaches the documents hereto.
16. In response to paragraph 16, which requests: **“As to the time period November 1, 2010 to April 15, 2011, all contracts, applications, invoices and receipts which evidence the formation of a business relationship between any bank product provider (e.g., refund anticipation loan,RAC, ERC, etc.), and Freedom Tax Stores”**, Freedom Tax, LLC objects on the basis that it is confidential and trade secret material. However, notwithstanding these objections, the documents are attached hereto.
17. Responding to paragraph 17 requesting: **“As to the time period November 1, 2010 to April 15, 2011, all contracts, applications, invoices,and receipts which**

evidence the formation of a business relationship between any electronic filing provider (e.g., Drake, Nelco or UTS) and Freedom Tax Stores”, Freedom Tax, LLC attaches the documents hereto.

18. Responding to paragraph 18 requesting **“As to the time period September 1, 2010 to the present, all EPIN applications filed by or on behalf of Freedom Tax Stores”, Freedom Tax, LLC responds that there are none to provide.**

19. In response to paragraph 19 requesting: **“As to the time period September 1, 2010 to April 15, 2011, all written communication from the IRS as to all EFIN applications filed by or on behalf Freedom Tax Stores”, Freedom Tax, LLC responds that there are none to provide.**

20. Responding to paragraph 20, which request: **“As to the time period November 1, 2010 to April 15, 2011, copies, in the original media format, of all advertisements, including flyers, brochures, mailings, emails, television commercials, radio commercials or any other media, soliciting Lax preparation services by Freedom Tax Stores”, Freedom Tax, LLC objects because the information sought is trade secret and confidential. Furthermore, this request is unduly burdensome and harassing.**

21. In response to paragraph 21, which requests: **“Copies of all invoices, purchase orders, mock ups and approvals of advertisements produced in response to**

no. 17 above", Freedom Tax, LLC answers that, notwithstanding its response to question 17, there are none to provide.

22. In response to paragraph 22 requesting: **"Emails to or from outside vendors with respect to the design, approval, or placement of advertisements produced in response to no. 17 above"**, Freedom Tax, LLC answers that, notwithstanding its response to question 17, there are none to provide.

23. Responding to paragraph 23 requesting: **"As to the time period November 1, 2010 to April 15, 2011, all receipts, journals, ledgers, and computer entries that show the revenues of Freedom Tax Stores"**, Freedom Tax, LLC objects. This is privileged and confidential information and it contains trade secret information, which could harm Freedom Tax, LLC's business.

24. Respond to paragraph 24 requesting: **"As to the time period November 1, 2010 to April 15, 2011, the checkbook, journal, ledger or computer entries which show the expenses of Freedom Tax Stores"**, Freedom Tax, LLC objects. This is privileged and confidential information and it contains trade secret information, which could harm Freedom Tax, LLC's business if it were released. Further, the request is intended to unduly burden and harass.

25. In response to paragraph 25, requesting: **"As to the time period November 1, 2010 to April 15, 2011, all bank statements, deposit slips, and other receipts or banking records of Freedom Tax Stores"**, Freedom Tax, LLC objects. This is privileged and confidential information and it contains trade secret information,

which could harm Freedom Tax, LLC's business. Furthermore, this request is intended to unduly burden and harass.

26. Responding to paragraph 26, which requests: **"A check register, computer log or other documents that shows all payments made by Freedom Tax from November 1, 2010 through April 15, 2011"**, Freedom Tax, LLC objects on the grounds that it is privileged and confidential information and would reveal trade secret information.

27. In response to paragraph 27, requesting: **The Freedom Tax Stores operations manual, employee manual, employee handbook and all other Freedom Tax Stores operational guidelines in effect in 2010 or 2011**", Freedom Tax, LLC objects because the information is confidential and trade secret information. Notwithstanding that objection, Freedom Tax, LLC encloses its employee manual for policies and procedures.

28. Responding to paragraph 28, which requests: **"All documents that show the source of funding loans and start-up capital for Freedom Tax"**, Freedom Tax, LLC objects. This information is confidential and privileged.

29. In response to paragraph 29, which requests: **"As to the time period November 1, 2010 to April 15, 2011, all e-mails sent by you to Troy Clark, or received by you from Troy Clark"**, Freedom Tax, LLC objects on the basis that it is privileged and confidential information. Freedom Tax, LLC is contractually bound to keep confidential.

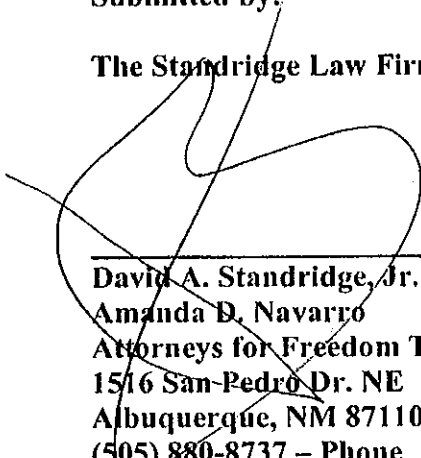
30. Responding to paragraph 30, which requests: **“All contracts and agreements between you and Troy Clark, Ron Clark or Kim Gutierrez entered into between April 1, 2010 - April 15, 2011”**, Freedom Tax, LLC objects. This information is privileged and confidential. Furthermore, Freedom Tax, LLC is contractually bound to keep the requested information confidential.

Responses and Objections to Exhibit B

1. Freedom Tax, LLC objects to Exhibit B in its entirety because it violates its privilege to confidentiality and trade secret information. Permitting the Plaintiff to inspect its premises, computers, and documents would cause irreparable harm to Freedom Tax, LLC. Furthermore, Freedom Tax, LLC is not a party to this litigation, and the requests are intended to unduly burden, embarrass, and harass Freedom Tax, LLC and to disrupt its business. The request is nothing more than a fishing expedition used in the form of a subpoena on a non-party to inspect its premises.

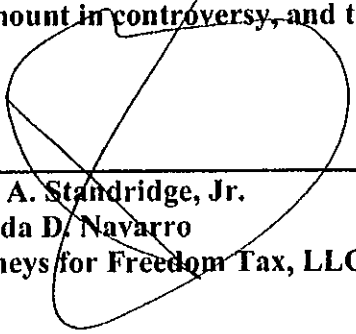
Submitted by:

The Standridge Law Firm, PC



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I certify that pursuant to FED. R. CIV. P. 26(G) these responses and objections are made to the best of the my knowledge, information, and belief, formed after a reasonable inquiry, the disclosure is complete and correct as of the time made, consistent with the rules and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and not unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issue at stake in the litigation.



David A. Standridge, Jr.
Amanda D. Navarro
Attorneys for Freedom Tax, LLC

Exhibit B

To: Freedom Tax Services, LLC
c/o National Corporate Research, Ltd.
1012 Marquez Place
Suite 106B
Santa Fe, New Mexico 87505

Please permit entry and inspection of all Freedom Tax Services, LLC offices by Liberty Tax Service technical support personnel for the purposes of allowing an inspection and copying of all computer data and electronic media and paper files/records presently at the locations listed below.

Any attempt to remove, change, alter, or delete any such items or information on any such items from the moment of receipt of this subpoena until this subpoena is complied with will be treated as obstruction of justice and legal remedies sought against anyone taking such action.

- a. Please permit entry by two Liberty Tax Service technical support persons onto the premises of Freedom Tax at:
 - i. 3118 San Mateo Blvd. NE, Albuquerque, New Mexico 87110;
 - ii. 1449 A Eubank Blvd., Albuquerque, New Mexico 87112;
 - iii. 475 Coors Blvd. NW, Suite D, Albuquerque, New Mexico 87121;
 - iv. 2130 San Mateo NE, Suite G, Albuquerque, New Mexico 87110; and
 - v. 1009 Golf Course Road SE, Suite 104, Rio Rancho, New Mexico 87124

Beginning on June 13, 2011 at 9:00 a.m. with the office located at 3118 San Mateo Blvd. NE, Albuquerque, New Mexico 87110, the inspection will continue from time to time and day to day until completed.

- b. Please permit Liberty Tax's technical support persons to:
 - (1) inspect and copy all computer data and other electronic media and paper files at this location to determine any retention of Liberty Tax customer tax returns, files, records, lists and other sources of information containing the names of customers who patronized Troy Clark's former Liberty Tax franchises; and,
 - (2) to determine the number of Liberty customer returns filed as well as any fees generated by such tax returns and to determine with which company Freedom Tax e-files its tax returns.

If you have any questions about this subpoena, please contact Attorney Sada Sheldon at (757) 493-8855 . Thank you very much.